

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was **not** written for publication in a law journal and (2) is **not** binding precedent of the Board.

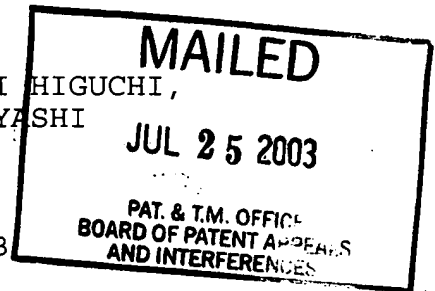
Paper No. 53

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HISASHI YAMAGISHI, HIROSHI HIGUCHI,
YASUSHI ICHIKAWA, and JUNJI HAYASHI

Application No. 08/898,853



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on June 9, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

In accordance with the revision effective December 1, 1997, Title 37, Code of Federal Regulations, § 1.193 states:

(b)(1) ... The primary examiner must be either acknowledge receipt and entry of the reply brief or withdraw the final rejection and reopen prosecution to respond to the reply brief.

However, in the instant application, the examiner on May 23, 2003 improperly responded to the Reply Brief filed March 20, 2003. The Examiner, in order to rectify this improper response, has one of two choices: 1) vacate the improper response and file an appropriate response or 2) reopen prosecution.

Accordingly, it is

ORDERED that the application is returned to the Examiner to either reopen prosecution or to vacate the improper Response to the Reply Brief in favor of a proper response to the Reply Brief, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INFERENCES

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RA03-0439

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